

LS 5-1341 a

OGC Has Reviewed

19 July 1955

MEMORANDUM FOR: The Director of Personnel

SUBJECT: Movement to [REDACTED] of Dependents of Personnel Assigned to [REDACTED] 25X1A6a

REFERENCE: (a) Memorandum to OGC from Director of Personnel, subject as above, dated 15 June 1955
(b) Memorandum to Director of Personnel from Chief, FE, subject as above, dated 5 May 1955
(c) Dispatch [REDACTED] to Chief, FE, from Chief, 25X1A6c Support Mission, related subjects, dated 1 June 1955

1. The problem as presented by your memorandum and amplified in discussion with the Chief and Deputy Chief, [REDACTED] is to determine whether there is any legal and proper way in which, when Agency employees are assigned to [REDACTED] their dependents can be transported to [REDACTED] and there furnished quarters on a par with dependents of other Agency personnel who are assigned to [REDACTED]. Discussion with [REDACTED] indicates that this query arises from the attempt to find a solution to the problem arising from the following factual situation. 25X1A

2. [REDACTED]

3. Agency policy with respect to the furnishing of quarters to personnel assigned to foreign areas is detailed in [REDACTED] 4 April 1954. This regulation is based on the authority of the Agency, under section 10a of Public Law 110, to expend available sums for "purposes necessary to carry out its functions, including - . . . construction . . . (and) . . . rental of buildings . . .", and upon the general policy expressed by the Congress in the act of 26 June 1930 (5 USCA 118a) that quarters might be furnished without cost to government employees having permanent stations in a foreign country. (Although that Act does not by its terms include the Agency, 27 Comp. Gen. 396, 26 January 1948, held language similar to that in PL 110 "sufficient to make current appropriation available for furnishing quarters to employees".) 25X1A

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4. A reading of the cited regulation indicates an expectation in its provisions that employees and their dependents will be residing together, an expectation probably justified in the usual case. There is neither a grant nor a denial of the specific authority to quarter dependents alone when the employee falls within the purview of the regulation. We can look then only to the general body of legislation and Governmental policy for guidance.

5. The historical development of additional compensation for civilian employees of the Government assigned abroad, whether in terms of special allowances or (as with quarters) in kind, has been that of gradually expanded privileges. Under such circumstances, the grants of privilege must be strictly construed and, in practice, they have been. For corroboration, one need only examine, e.g., the "qualifying" rules for dependents for whom travel or quarters privileges are sought. Through the legislation and the administrative determination runs the principle of the "household", a group of people who go with the employee, but who have, for this purpose, no separate legal entitlements. Although unforeseen situation, such as the temporary detail of the employee from his duty station to another, or the emergency evacuation of dependents, because of dangerous conditions arising in the area of the employee's duty station, may result in the temporary provision of quarters for dependents separate from the employee, we can find no sanction in legislation nor in the practice of other agencies for the planned provision of quarters for dependents at anyplace other than the employee's permanent duty station.

6. Lacking a precedent in general Governmental practice, the proposal could be authorized for this Agency, if at all, only under the broad powers granted the Director under section 10(b) of PL 110. It has been this Agency's consistent policy, (the correctness of which was affirmed in 31 Comp. Gen. 191, 21 November 1951,) that these special powers are not to be exercised to solve administrative problems common to all agencies of Government, and in no way arising from our peculiar functions. The instant case would seem encompassed within this policy.

7. The factual pivot upon which this case turns is simply this: personnel qualified for service in [REDACTED] are refusing to accept assignment, and the authority to ship their families to [REDACTED] would provide an inducement of unknown efficacy, which might lead them to change their minds. The disinclination to be separated from dependents is a fairly widespread emotion, and all Government agencies are faced with problems resulting from its prevalence. In [REDACTED] itself, today, all U. S. Government agencies (other than the Department of State) must operate, and are operating, despite this obstacle. Granting the special qualifications required for Agency tasks, this factor alone is not sufficient ground for authorizing what would otherwise be improper. Not unless and until all reasonable alternatives are exhausted

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and found ineffective, and our functioning in [REDACTED] is seriously in danger of impairment, would a situation exist warranting the exercise of the Director's special powers for resolution -- and even then, it is not certain that the proper resolution would be that proposed. 25X1A6a

8. The concept of the Career Staff seems designed to meet the very problem here presented; its members "have the obligation to serve anywhere and at any time and for any kind of duty as determined by the needs of the Organization" [REDACTED] its application would seem to fall within the category of "reasonable alternatives". 25X1A

9. Reference (c) is returned herewith.

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[REDACTED]
Office of General Counsel

Attachment - 1

OGC:RPB:ml1
subject
signer
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MISSING PAGE

ORIGINAL DOCUMENT MISSING PAGE(S):

All not included